

REMARKS

In view of the foregoing amendments and the following remarks, Applicants respectfully submit the instant application is in condition for allowance, an indication of which is respectfully requested.

Patentability - 35 U.S.C. § 103

Claims 1, 5, 6, and 11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Number 7,007,092 ("Peiffer") in view of U.S. Patent Number 6,917,971 ("Klein"). Applicants respectfully traverse this rejection for at least the following reasons.

Applicants respectfully submit that the proposed combination of Peiffer and Klein, at a minimum, fails to describe or suggest a traffic control apparatus that includes, among other features, a unit for managing a total measured reception performance of the plurality of client apparatuses coupled to the server apparatus, *the total measured reception performance including a sum of measured reception performance of each of the plurality of client apparatuses coupled to the server apparatus*; and a unit for controlling whether to relay of a newly received service request to the server apparatus, based on transmission performance of the server apparatus and *the total measured reception performance of the plurality of client apparatuses*, as recited in amended claim 1. Support for this amendment may be found in the instant application at, for example, page 13, line 10 to page 14, line 13; page 16, lines 7-15; page 19, line 20 to page 20, line 6; page 22, line 25 to page 23, line 19 and FIGS. 3 and 13.

The Office Action concedes Peiffer does not expressly disclose a unit for measuring reception performance of a client apparatus. *See*, Office Action at page 4. The Office Action,

however, asserts that Klein provides such a teaching in FIG. 2, column 7, lines 28-54; and paragraph bridging columns 7 and 8. *Id.*

In the relied upon portion of Klein, a client device measures a total client segment time. Specifically, Klein describes measuring the amount of time it takes to process the request on the outbound leg of the client 104 and the amount of time it takes to process the request on the inbound leg of the client 104. The response time of the outbound client segment time is added to the inbound client segment time to compute the total client segment time. This represents performance response time for one client and not multiple clients.

That is, Klein fails to describe or suggest measuring a total measured reception performance of the plurality of client apparatuses coupled to the server apparatus, wherein the total measured reception performance includes a sum of measured reception performance of each of the plurality of client apparatuses coupled to the server apparatus. Specifically, even if it is assumed for the sake of argument that Klein describes measuring reception performance of the client device, here Klein is limited to one client device and does not describe measuring the total reception performance of the plurality of client apparatuses coupled to the server. Furthermore, since in Klein the processing is being performed at the client device instead of a traffic control apparatus located between a plurality of client devices and a server device, Klein cannot be modified to teach such limitation.

As such, the proposed combination of Peiffer and Klein, at a minimum, fails to describe or suggest a traffic control apparatus that includes, among other features, a unit for managing a total measured reception performance of the plurality of client apparatuses coupled to the server apparatus, *the total measured reception performance including a sum of measured reception performance of each of the plurality of client apparatuses coupled to the server apparatus*; and

a unit for controlling whether to relay of a newly received service request to the server apparatus, based on transmission performance of the server apparatus and *the total measured reception performance of the plurality of client apparatuses*, as recited in amended claim 1.

For at least the foregoing reasons, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 1, along with its dependent claims.

Independent claim 11 has been amended to recite features similar to the above-recited features of claim 1. Therefore, for at least the reasons presented above with respect to claim 1, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 11, along with its dependent claims.

Claims 3, 10, 13, and 14 were rejected under § 103(a) as being unpatentable over Peiffer in view of Klein and further in view of U.S. Patent Number 6,606,661 (“Agrawal”). Claims 4, 7-9, and 12 were rejected under § 103(a) as being unpatentable over Peiffer in view of Klein and further in view of U.S. Patent Number 6,101,542 (“Miyamoto”). Claims 16 and 17 were rejected under § 103(a) as being unpatentable over Peiffer in view of Klein and further in view of U.S. Patent Publication Number 2002/0138618 (“Szabo”). Claims 3, 4, 7-10, 12-14, 16, and 17 variously depend from claims 1 and 11. Therefore, for at least the reasons presented above with respect to claims 1 and 11, Applicants respectfully request reconsideration and withdrawal of the rejections of claims 3, 4, 7-10, 12-14, 16, and 17.

Conclusion

Having fully responded to all matters raised in the Office Action, Applicants submit that all claims are in condition for allowance, an indication for which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner’s

Application Serial No.: 10/797,619

amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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A handwritten signature in dark ink, appearing to read 'Babak Akhlaghi', is written over a horizontal line.

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